

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

MARSHALL LOUIS RATLIFF,

Plaintiff,

v.

CIVIL ACTION NO. 5:20-cv-00619

CHAD LESTER, et al.,

Defendant.

ORDER

Pending is Plaintiff's form Complaint [Doc. 3], filed September 21, 2020. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on January 29, 2021. Magistrate Judge Aboulhosn recommended that the Court dismiss Plaintiff's complaint as to his claim of a denial of the right to participate in the administrative remedy process and his claim of verbal abuse and sexual harassment. Magistrate Judge Aboulhosn also recommended that the Court refer this matter back to him for further proceedings on Plaintiff's claims of excessive force in violation of the Eighth Amendment, lack of recreation in violation of the Eighth Amendment, and the denial of recreation and telephone privileges in violation of the Fourteenth Amendment.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (emphasis added) ("A judge of the court shall make a de novo determination of those

portions of the report or specified proposed findings or recommendations *to which objection is made.*”). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on February 15, 2021. No specific objections were filed. Inasmuch as Plaintiff filed a general objection requesting his case continue, the Court is satisfied that the objection is adequately answered by referring the aforementioned claims back to Magistrate Judge Aboulhosn.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 7**], **DISMISSES** the form Complaint [**Doc. 1**] as to the claim of a denial of the right to participate in the administrative remedy process and claim of verbal abuse and sexual harassment. The case is **REFERRED** back to Magistrate Judge Aboulhosn for further proceedings on Plaintiff’s claims of excessive force in violation of the Eighth Amendment; lack of recreation in violation of the Eighth Amendment; and the denial of recreation and telephone privileges in violation of the Fourteenth Amendment.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party herein.

ENTER: April 19, 2021



Frank W. Volk
 Frank W. Volk
 United States District Judge